

1 AN ACT relating to sponsorships.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in this section and Section 2 of this Act:*

6 *(1) "Business" has the same meaning as in Section 3 of this Act;*

7 *(2) "Commemoration" means an object, such as a plaque or a sign, honoring a*
8 *living person or an event, but does not include naming rights;*

9 *(3) "Does business with" or "doing business with" has the same meaning as in*
10 *Section 3 of this Act;*

11 *(4) "Donation" means a monetary or in-kind contribution given to a governmental*
12 *body to further the governmental body's mission with no tangible or intangible*
13 *benefit to the donor. Name recognition in promotional materials or on a*
14 *commemoration or memorial shall not constitute a tangible or intangible benefit*
15 *to a donor;*

16 *(5) "Gift" means a payment, loan, subscription, advance, deposit of money, service,*
17 *or anything of monetary value given to a governmental body to further a*
18 *governmental body's mission, where only the governmental body receives the*
19 *tangible or intangible benefit, and no personal benefits accrue to any individual;*

20 *(6) "Memorial" means an object, such as a plaque or a sign, honoring a deceased*
21 *person or an event, but does not include naming rights;*

22 *(7) "Naming rights" means a form of advertising sponsorship contracted by one (1)*
23 *of the methods in KRS 45A.075(1) or (2) or 45A.077, where a business or other*
24 *entity purchases the right to name a building, structure, or any other physical*
25 *property owned or operated by the Commonwealth for a defined period of time,*
26 *for consideration. No naming rights shall be granted to alter the names of state*
27 *parks, cemeteries, historical memorials, battlefields, state institutions of higher*

1 education, historical landmarks, the Capitol, the Capitol Annex, lakes, or rivers;

2 (8) "Person" means an individual or any legal entity through which business is
3 conducted for profit;

4 (9) "Prohibited source" means any person, company, or organization that:

5 (a) Has a current contractual relationship with a governmental body;

6 (b) Conducts operations that are regulated by a governmental body;

7 (c) May be lobbying or attempting to influence matters of that governmental
8 body;

9 (d) That has any interests that might be affected by the performance or
10 nonperformance of official duties of the governmental body or the
11 governmental body's employees; or

12 (e) Is a person, company, or organization currently bidding on or proposing a
13 contractual project with the governmental body under one (1) of the
14 methods established in KRS 45A.075 or 45A.077;

15 (10) "Public benefit" means a benefit accrued to a governmental body of the
16 Commonwealth to further the mission of or improve the governmental body or its
17 infrastructure; and

18 (11) "Sponsorship" means an agreement for the receipt of cash or noncash value by a
19 governmental body from a business or other entity in exchange for advertising or
20 similar commercial considerations, including event sponsorships.

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO
22 READ AS FOLLOWS:

23 (1) A governmental body may accept donations and gifts from persons or businesses
24 to further the governmental body's mission or to benefit the Commonwealth.
25 Donations and gifts shall not be from a prohibited source.

26 (2) In exchange for a donation or gift, a governmental body may consider an
27 accompanying request for a commemoration or memorial, but all such requests

1 involving state property shall be subject to approval by the secretary.

2 (3) Except as provided in Section 6(2)(d) of this Act, naming rights of structures,
3 buildings, or any other physical property owned or operated by the
4 Commonwealth of Kentucky shall be competitively awarded pursuant to KRS
5 Chapter 45A and subject to review and approval by the secretary. Naming rights
6 shall not constitute an endorsement of a particular business by the
7 Commonwealth.

8 (4) Notwithstanding KRS Chapter 11A, a governmental body may accept and solicit
9 sponsorships from persons and businesses in the following manner:

10 (a) A sponsorship shall be for a defined period of time, a specific event, or a
11 particular governmental body purchase or need;

12 (b) A governmental body seeking to solicit a sponsorship shall advertise the
13 sponsorship opportunity on its Web site, newsletter, or other written media
14 for a minimum of seven (7) calendar days. A sponsorship opportunity shall
15 describe the number of potential sponsorships available, the relative
16 importance of price and other evaluation factors used to ensure "best
17 value" as defined in KRS 45A.070, and the advertising or similar
18 commercial considerations available from the Commonwealth for a
19 particular sponsorship opportunity;

20 (c) The governmental body shall notify the Office of Material and Procurement
21 Services in the Office of the Controller of the Finance and Administration
22 Cabinet by providing copies of its sponsorship opportunity advertisements to
23 the office. If the Office of Procurement Services approves or does not
24 respond to the governmental body within one (1) business day of
25 notification, the governmental body may proceed under this subsection;

26 (d) At the end of the advertising period for a sponsorship, all responses shall be
27 evaluated in accordance with the evaluation factors set forth in the

1 sponsorship opportunity;

2 (e) Written or oral discussions may be conducted with responsible bidders in
3 accordance with KRS 45A.085(7);

4 (f) A sponsorship shall be awarded to the responsible bidder determined in
5 writing to be most advantageous to the Commonwealth, taking into
6 consideration the evaluation factors set forth in the sponsorship
7 opportunity. All evaluation documentation, scoring, and summary
8 conclusions of the award shall be made a part of the file or governmental
9 body record;

10 (g) If insufficient eligible responses are received in response to the advertising
11 of a sponsorship opportunity, and the purchasing officer determines in
12 writing that further bidding would not likely result in additional responsive
13 proposals being received by the Commonwealth, then noncompetitive
14 negotiations with non-prohibited sources may be used to award contracts
15 for the remaining number of sponsorships available;

16 (h) A sponsorship shall not constitute an endorsement of a particular business
17 by the Commonwealth as the sole vendor of choice; and

18 (i) An entity that is a prohibited source may be considered for a sponsorship
19 opportunity only if there is a written finding by the purchasing officer that:

20 1. The entity is not lobbying or attempting to influence matters of the
21 governmental body; and

22 2. The sponsorship will provide:

23 a. A public benefit to the Commonwealth; or

24 b. Economic development or enhanced tourism in the
25 Commonwealth.

26 (5) An entity that is a prohibited source due to its current contractual relationship
27 with a governmental body may provide conferences or training events for the

1 *benefit of the governmental body only:*

2 *(a) When the entity does not have any interests that might be affected by the*
3 *performance or nonperformance of the governmental body's official duties;*

4 *and*

5 *(b) The conference or training promotes safety, economic development, or*
6 *tourism in the Commonwealth, or there is otherwise a public benefit to the*
7 *Commonwealth.*

8 *(6) Governmental body employees whose official duties include acceptance or*
9 *solicitation of donations, gifts, or sponsorships shall not be involved with:*

10 *(a) The solicitation or award of contracts by the governmental body; or*

11 *(b) The noncompetitive negotiation of naming rights of structures, buildings, or*
12 *any physical property owned or operated by the Commonwealth.*

13 ➔Section 3. KRS 11A.010 is amended to read as follows:

14 As used in this chapter, unless the context otherwise requires:

15 (1) "Business" means any corporation, limited liability company, partnership, limited
16 partnership, sole proprietorship, firm, enterprise, franchise, association,
17 organization, self-employed individual, holding company, joint stock company,
18 receivership, trust, or any legal entity through which business is conducted, whether
19 or not for profit;

20 (2) "Commission" means the Executive Branch Ethics Commission;

21 (3) "Compensation" means any money, thing of value, or economic benefit conferred
22 on, or received by, any person in return for services rendered, or to be rendered, by
23 himself or another;

24 (4) "Family" means spouse and children, as well as a person who is related to a public
25 servant as any of the following, whether by blood or adoption: parent, brother,
26 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-
27 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,

- 1 stepbrother, stepsister, half brother, half sister;
- 2 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or
3 anything of value, unless consideration of equal or greater value is received; "gift"
4 does not include gifts from family members, campaign contributions, the waiver of
5 a registration fee for a presenter at a conference or training described in
6 subsection (5) of Section 2 of this Act, or door prizes available to the public;
- 7 (6) "Income" means any money or thing of value received or to be received as a claim
8 on future services, whether in the form of a fee, salary, expense allowance,
9 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other
10 form of compensation or any combination thereof;
- 11 (7) "Officer" means all major management personnel in the executive branch of state
12 government, including the secretary of the cabinet, the Governor's chief executive
13 officers, cabinet secretaries, deputy cabinet secretaries, general counsels,
14 commissioners, deputy commissioners, executive directors, principal assistants,
15 division directors, members and full-time chief administrative officers of the Parole
16 Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems
17 board of trustees, Kentucky Teachers' Retirement System board of trustees, Public
18 Service Commission, Worker's Compensation Board and its administrative law
19 judges, the Kentucky Occupational Safety and Health Review Commission, the
20 Kentucky Board of Education, the Council on Postsecondary Education, and any
21 person who holds a personal service contract to perform on a full-time basis for a
22 period of time not less than six (6) months a function of any position listed in this
23 subsection;
- 24 (8) "Official duty" means any responsibility imposed on a public servant by virtue of
25 his or her position in the state service;
- 26 (9) "Public servant" means:
- 27 (a) The Governor;

- 1 (b) The Lieutenant Governor;
- 2 (c) The Secretary of State;
- 3 (d) The Attorney General;
- 4 (e) The Treasurer;
- 5 (f) The Commissioner of Agriculture;
- 6 (g) The Auditor of Public Accounts; and
- 7 (h) All employees in the executive branch including officers as defined in
- 8 subsection (7) of this section and merit employees;
- 9 (10) "Agency" means every state office, cabinet, department, board, commission, public
- 10 corporation, or authority in the executive branch of state government. A public
- 11 servant is employed by the agency by which his or her appointing authority is
- 12 employed, unless his or her agency is attached to the appointing authority's agency
- 13 for administrative purposes only, or unless the agency's characteristics are of a
- 14 separate independent nature distinct from the appointing authority and it is
- 15 considered an agency on its own, such as an independent department;
- 16 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS
- 17 6.611(23) or any person employed as an executive agency lobbyist as defined in
- 18 KRS 11A.201(8);
- 19 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,
- 20 opposes, or acts;
- 21 (13) "Candidate" means those persons who have officially filed candidacy papers or who
- 22 have been nominated by their political party pursuant to KRS 118.105, 118.115,
- 23 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of
- 24 this section;
- 25 (14) "Does business with" or "doing business with" means contracting, entering into an
- 26 agreement, leasing, or otherwise exchanging services or goods with a state agency
- 27 in return for payment by the state, including accepting a grant, but not including

- 1 accepting a state entitlement fund disbursement;
- 2 (15) "Public agency" means any governmental entity;
- 3 (16) "Appointing authority" means the agency head or any person whom he or she has
- 4 authorized by law to act on behalf of the agency with respect to employee
- 5 appointments;
- 6 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate
- 7 with an employee of an agency on behalf of someone else;
- 8 (18) "Directly involved" means to work on personally or to supervise someone who
- 9 works on personally;
- 10 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,
- 11 event, or race involving machines, persons, or animals, for which admission tickets
- 12 are offered for sale and that is viewed by the public; and
- 13 (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership,
- 14 joint venture, joint stock company, syndicate, business or statutory trust, donative
- 15 trust, estate, company, corporation, limited liability company, association, club,
- 16 committee, organization, or group of persons acting in concert.

17 ➔Section 4. KRS 11A.045 is amended to read as follows:

- 18 (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts
- 19 or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria,
- 20 totaling a value greater than twenty-five dollars (\$25) in a single calendar year from
- 21 any person or business that does business with, is regulated by, is seeking grants
- 22 from, is involved in litigation against, or is lobbying or attempting to influence the
- 23 actions of the agency in which the public servant is employed or which he
- 24 supervises, or from any group or association which has as its primary purpose the
- 25 representation of those persons or businesses. Nothing contained in this subsection
- 26 shall prohibit the commission from authorizing exceptions to this subsection where
- 27 such exemption would not create an appearance of impropriety. *This subsection*

1 shall not apply to:

2 (a) Activities involving sponsorships, naming rights, or similar honoraria
3 granted under Section 2 of this Act; or

4 (b) Individuals traveling on their own while involved in activities related to
5 Section 2 of this Act.

6 (2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or
7 acceptance by a public servant of a ticket for admission to a sporting event if the
8 ticket or admission is paid for by the public servant at face value or is paid for at
9 face value by the individual to whom the ticket is allocated.

10 (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a
11 public servant of the Cabinet for Economic Development or by any other public
12 servant working directly with the cabinet on an economic incentive package of
13 anything of economic value as a gift or gratuity, if the gift or gratuity:

14 (a) Was not solicited by the public servant;

15 (b) Was accepted by the public servant in the performance of his or her official
16 duties and in compliance with guidelines to be established by the Kentucky
17 Economic Development Partnership which shall include requirements that all
18 gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered
19 with the Kentucky Economic Development Partnership and with the
20 Executive Branch Ethics Commission and that all tangible property with a
21 value in excess of twenty-five dollars (\$25), other than food and beverages
22 consumed on the premises, shall be turned over to the Cabinet for Economic
23 Development within thirty (30) days of receipt. In filing reports of gifts or
24 gratuities with the Executive Branch Ethics Commission, the Cabinet for
25 Economic Development may delete information identifying the donors if the
26 cabinet believes identification of the donors would damage economic
27 development; and

1 (c) Was not accepted under circumstances which would create a violation of KRS
2 Chapter 521.

3 ➔Section 5. KRS 11A.055 is amended to read as follows:

4 (1) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency
5 or a public servant may raise funds, either individually or as a department or agency,
6 for a charitable nonprofit organization granted a tax exemption by the Internal
7 Revenue Service under Section 501c of the Internal Revenue Code without
8 violating the provisions of this chapter. Raising of funds shall include but not be
9 limited to holding events for the benefit of the charitable organization, contacting
10 potential donors, providing prizes, and engaging in other forms of fundraising and
11 providing the funds thus raised to the charitable organization.

12 (2) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency
13 or a public servant may raise funds, either individually or as a department or agency,
14 for crime prevention, drug and alcohol abuse prevention, tourism promotion, and
15 traffic safety programs without violating the provisions of this chapter. Raising of
16 funds shall include but not be limited to holding events for the benefit of a program
17 specified in this section, contacting potential donors, providing prizes, and engaging
18 in other forms of fundraising and providing the funds thus raised to the program.

19 (3) Any provision of KRS Chapter 11A to the contrary notwithstanding, any
20 nonprofit charitable organization organized under 26 U.S.C. sec. 501(c)(3),
21 affiliated with the Tourism, Arts, and Heritage Cabinet, or whose purpose is the
22 promotion of tourism in the Commonwealth:

23 (a) Shall not be subject to the provisions of this chapter;

24 (b) May benefit from cabinet employees working on its behalf without the
25 employees violating the provisions of this chapter; and

26 (c) May make contributions to the cabinet after being solicited by cabinet
27 employees without the employees violating the provisions of this chapter.

➔ Section 6. KRS 45A.095 is amended to read as follows:

(1) For purposes of this section:

(a) "Emergency condition" means a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person; and

(b) "Sole source" means a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions.

(2) A contract may be made by noncompetitive negotiation only;

(a) For sole source purchases;~~;~~ ~~or }~~

(b) When competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A;~~;~~ ~~or }~~

(c) When emergency conditions exist; or

(d) For sponsorships, naming rights, or other advertising or similar considerations for which competition is not feasible. ~~Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the~~

1 ~~supplier, or market conditions. }~~

2 **(3)** Insofar as it is practical, no ~~fewer~~~~[less]~~ than three (3) suppliers shall be solicited to
3 submit written or oral quotations whenever it is determined that competitive sealed
4 bidding is not feasible. Award shall be made to the supplier offering the best value.
5 The names of the suppliers submitting quotations and the date and amount of each
6 quotation shall be placed in the procurement file and maintained as a public record.

7 **(4)** Competitive bids may not be required:

- 8 (a) For contractual services where no competition exists, such as telephone
9 service, electrical energy, and other public utility services;
10 (b) Where rates are fixed by law or ordinance;
11 (c) For library books;
12 (d) For commercial items that are purchased for resale;
13 (e) For interests in real property;
14 (f) For visiting speakers, professors, expert witnesses, and performing artists;
15 (g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725;
16 and
17 (h) For agricultural products in accordance with KRS 45A.645.

18 ~~(5)~~~~[(2)]~~ The chief procurement officer, the head of a using agency, or a person
19 authorized in writing as the designee of either officer may make or authorize others
20 to make emergency procurements when an emergency condition exists.

21 ~~(6)~~~~[(3)]~~ ~~—An emergency condition is a situation which creates a threat or impending~~
22 ~~threat to public health, welfare, or safety such as may arise by reason of fires,~~
23 ~~floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy~~
24 ~~attack, sabotage, explosion, power failure, energy shortages, transportation~~
25 ~~emergencies, equipment failures, state or federal legislative mandates, or similar~~
26 ~~events. The existence of the emergency condition creates an immediate and serious~~
27 ~~need for services, construction, or items of tangible personal property that cannot be~~

1 ~~met through normal procurement methods and the lack of which would seriously~~
2 ~~threaten the functioning of government, the preservation or protection of property,~~
3 ~~or the health or safety of any person.~~

4 (4) The Finance and Administration Cabinet may negotiate directly for the purchase of
5 contractual services, supplies, materials, or equipment in bona fide emergencies
6 regardless of estimated costs. The existence of the emergency shall be fully
7 explained, in writing, by the head of the agency for which the purchase is to be
8 made. The explanation shall be approved by the secretary of the Finance and
9 Administration Cabinet and shall include the name of the vendor receiving the
10 contract along with any other price quotations and a written determination for
11 selection of the vendor receiving the contract. This information shall be filed with
12 the record of all such purchases and made available to the public. Where practical,
13 standard specifications shall be followed in making emergency purchases. In any
14 event, every effort should be made to effect a competitively established price for
15 purchases made by the state.

16 ➔Section 7. KRS 45A.810 is amended to read as follows:

17 (1) (a) One (1) or more architectural services selection committees and one (1) or
18 more engineering or engineering-related services selection committees shall
19 be created in the Finance and Administration Cabinet.

20 (b) One (1) or more engineering and engineering-related services selection
21 committees shall be created in the Transportation Cabinet.

22 (2) Except when an emergency **condition** exists as defined by **subsection (1)(a) of**
23 **Section 6 of this Act**~~[KRS 45A.095(3)]~~, when architectural, engineering, or
24 engineering-related services are procured under KRS 45A.837 and 45A.838, or
25 when the project is constructed under KRS 45A.045(11)(a) or (b):

26 (a) An architectural services selection committee created in the Finance and
27 Administration Cabinet shall participate in every instance of that cabinet's

1 procuring architectural services;

2 (b) An engineering and engineering-related services selection committee created
3 in the Finance and Administration Cabinet shall participate in every instance
4 of that cabinet's procuring engineering or engineering-related services; and

5 (c) An engineering and engineering-related services selection committee created
6 in the Transportation Cabinet shall participate in every instance of that
7 cabinet's procuring engineering or engineering-related services.

8 (3) An architectural services selection committee created in the Finance and
9 Administration Cabinet shall consist of six (6) or more members selected in the
10 manner specified within each paragraph:

11 (a) Two (2) architects. The secretary of the Finance and Administration Cabinet
12 shall appoint a pool of at least six (6) architects who are employees of the
13 cabinet. At least three (3) of the architects shall be merit employees of the
14 cabinet. The secretary, or his designee, under the supervision of the Auditor of
15 Public Accounts, or his designee, shall randomly select architects from the
16 pool. The first employee selected shall be placed on the selection committee.
17 If the first employee selected is a merit employee, the second employee
18 selected shall be placed on the selection committee. If the first employee
19 selected is a nonmerit employee, the selection process shall continue until a
20 merit employee is selected. That merit employee shall be placed on the
21 selection committee;

22 (b) One (1) or more additional employees of the Department for Facilities
23 Management, appointed by the commissioner of the Department for Facilities
24 Management, to serve as a nonvoting technical adviser for a given project
25 selection. Advisory members shall serve on a project-by-project basis and
26 shall have the requisite knowledge, training, or experience pertaining to the
27 professional requirements of the project.

- 1 (c) Two (2) merit employees of the user agency appointed by the head of that
2 agency to serve for the duration of the selection committee's participation in
3 the project for which they were appointed by the user agency;
- 4 (d) An individual. The Kentucky Society of Architects shall nominate nine (9)
5 individuals, and the Governor shall appoint three (3) of these individuals to
6 serve in the pool from which the secretary of the Finance and Administration
7 Cabinet, or his designee, under the supervision of the Auditor of Public
8 Accounts, or his designee, shall randomly select one (1) individual to serve on
9 the committee;
- 10 (e) One (1) or more merit employees of the Auditor of Public Accounts,
11 appointed by the Auditor, who may, at the discretion of the Auditor, serve as
12 nonvoting members of the committee. If one (1) employee is appointed, then
13 that employee may attend any committee proceedings. If more than one (1)
14 employee is appointed, then either of the employees may attend any
15 committee proceeding; and
- 16 (f) Upon completion of the selection process set forth in this subsection, the
17 commissioner of the Department of Facilities Management shall submit a
18 statement to the Auditor of Public Accounts attesting to full compliance with
19 the selection process for each architectural firm appointed to provide
20 architectural services. In addition, a complete record of the selection process
21 for each project shall be maintained by the department and shall be subject to
22 audit by the Auditor of Public Accounts.
- 23 (4) The engineering and engineering-related services selection committee created in the
24 Finance and Administration Cabinet shall consist of six (6) or more members
25 selected in the manner specified in each paragraph:
- 26 (a) Two (2) engineers. The secretary of the Finance and Administration Cabinet
27 shall appoint a pool of at least six (6) engineers who are employees of the

1 cabinet. At least three (3) of the engineers shall be merit employees of the
2 cabinet. The secretary, or his designee, under the supervision of the Auditor of
3 Public Accounts, or his designee, shall randomly select engineers from the
4 pool. The first employee selected shall be placed on the selection committee.
5 If the first employee selected is a merit employee, the second employee
6 selected shall be placed on the selection committee. If the first employee
7 selected is a nonmerit employee, the selection process shall continue until a
8 merit employee is selected. That merit employee shall be placed on the
9 selection committee;

10 (b) Two (2) merit employees of the user agency appointed by the head of that
11 agency to serve for the duration of the selection committee's participation in
12 the project for which they were appointed by the user agency;

13 (c) An individual. The Kentucky Society of Professional Engineers and the
14 Kentucky Consulting Engineers Council shall together nominate nine (9)
15 individuals, and the Governor shall appoint three (3) of these individuals to
16 serve in the pool from which the secretary of the Finance and Administration
17 Cabinet, or his designee, under the supervision of the Auditor of Public
18 Accounts, or his designee, shall randomly select one (1) individual to serve on
19 the committee;

20 (d) One (1) or more merit employees of the Auditor of Public Accounts,
21 appointed by the Auditor, who may, at the discretion of the Auditor, serve as
22 nonvoting members of the committee. If one (1) employee is appointed, then
23 that employee may attend any committee proceedings. If more than one (1)
24 employee is appointed, then either of the employees may attend any
25 committee proceeding;

26 (e) One (1) or more additional employees of the Department for Facilities
27 Management to serve as nonvoting technical adviser for a specific project

1 selection. Advisory members shall serve on a project-by-project basis and
2 shall have the requisite knowledge, training, or experience pertaining to the
3 professional requirements of the project; and

4 (f) Upon completion of the selection process set forth in this subsection, the
5 commissioner of the Department of Facilities Management shall submit a
6 statement to the Auditor of Public Accounts attesting to full compliance with
7 the selection process for each firm appointed to provide engineering or
8 engineering-related services. In addition, a complete record of the selection
9 process for each project shall be maintained by the department and shall be
10 subject to audit by the Auditor of Public Accounts.

11 (5) The engineering and engineering-related services selection committee created in the
12 Transportation Cabinet shall consist of six (6) or more members selected in the
13 manner specified in each paragraph:

14 (a) Two (2) engineers. The secretary of the Transportation Cabinet shall appoint a
15 pool of six (6) engineers who are employees of the cabinet. At least three (3)
16 of the engineers shall be merit employees of the cabinet. The secretary, or his
17 designee, under the supervision of the Auditor of Public Accounts, or his
18 designee, shall randomly select engineers from the pool. The first employee
19 selected shall be placed on the selection committee. If the first employee
20 selected is a merit employee, the second employee selected shall be placed on
21 the selection committee. If the first employee selected is a nonmerit employee,
22 the selection process shall continue until a merit employee is selected. That
23 merit employee shall be placed on the selection committee;

24 (b) Two (2) engineers who are merit employees of the user division appointed by
25 the head of that division to serve for the duration of the selection committee's
26 participation in the project for which they were appointed by the user agency.
27 However, if two (2) user divisions have approximately equal responsibilities

1 or separate responsibilities for the project, each user division head shall
2 appoint one (1) member to the selection committee;

3 (c) An individual. The Kentucky Society of Professional Engineers and the
4 Kentucky Consulting Engineers Council shall together nominate nine (9)
5 individuals, and the Governor shall appoint three (3) of these individuals to
6 serve in the pool from which the secretary of the Transportation Cabinet, or
7 his designee, under the supervision of the Auditor of Public Accounts, or his
8 designee, shall randomly select one (1) individual to serve on the committee;

9 (d) One (1) or more merit employees of the Auditor of Public Accounts,
10 appointed by the Auditor, who may, at the discretion of the Auditor, serve as
11 nonvoting members of the committee. If one (1) employee is appointed, then
12 that employee may attend any committee proceedings. If more than one (1)
13 employee is appointed, then either of the employees may attend any
14 committee proceeding; and

15 (e) Upon completion of the selection process set forth in this subsection, the
16 commissioner of the Department of Highways shall submit a statement to the
17 Auditor of Public Accounts attesting to full compliance with the selection
18 process for each firm appointed to provide engineering or engineering-related
19 services. In addition, a complete record of the selection process for each
20 project shall be maintained by the department and shall be subject to audit by
21 the Auditor of Public Accounts.

22 (6) (a) All selection committee members shall have experience which qualifies them
23 to serve on the committee.

24 (b) The same appointment procedures set out in this section apply to any user
25 agency or user division listed in subsection (3), (4), or (5) of this section that
26 does not operate under a merit system.

27 (c) Any individual appointed to serve in a pool from which selection committee

1 members are drawn shall serve in the pool for an initial one (1) year term and
2 may be reappointed to succeed himself. He shall serve until his successor is
3 appointed and qualified. A successor or a replacement, in the case of a
4 vacancy in the pool, shall be appointed in the same manner as the initial
5 appointee. If a selection committee member, drawn from a pool, leaves a
6 selection committee, his replacement shall be drawn from the pool in the same
7 manner as he. The replacement shall have the merit or nonmerit status of his
8 predecessor.

9 (d) Any individual appointed by the Auditor of Public Accounts to serve on
10 selection committees shall serve an initial one (1) year term and may be
11 reappointed to succeed himself. He shall serve until his successor is appointed
12 and qualified. A successor or a replacement, in the case of a vacancy, shall be
13 appointed in the same manner as the initial appointee.

14 (e) The selection committee members appointed by the head of a user agency or
15 user division shall serve on a project-by-project basis. These members shall
16 participate only in committee action related to the project for which they were
17 appointed. A replacement, in the case of a vacancy, shall be appointed in the
18 same manner as the initial appointee.